

**MINUTES OF LAYTON CITY  
COUNCIL MEETING**

**NOVEMBER 21, 2013; 7:03 P.M.**

**MAYOR AND COUNCILMEMBERS  
PRESENT:**

**MAYOR J. STEPHEN CURTIS, MICHAEL  
BOUWHUIS, JOYCE BROWN, BARRY FLITTON  
AND JORY FRANCIS**

**ABSENT:**

**SCOTT FREITAG**

**STAFF PRESENT:**

**ALEX JENSEN, GARY CRANE, BILL WRIGHT,  
PETER MATSON, TRACY PROBERT, TERRY  
COBURN, JAMES (WOODY) WOODRUFF, KENT  
ANDERSEN AND THIEDA WELLMAN**

**The meeting was held in the Council Chambers of the Layton City Center.**

Mayor Curtis opened the meeting and excused Councilmember Freitag. Boy Scout Mac Jenkins with Troop 350 led the Pledge of Allegiance. Ryan Jenkins gave the invocation. Scouts from Troops 350, 539, 520, 479 and 563 were welcomed. Students from Weber State University were recognized.

**MINUTES:**

**MOTION:** Councilmember Bouwhuis moved and Councilmember Flitton seconded to approve the minutes of:

**Layton City Council Strategic Planning Work Meeting – October 17, 2013.**

The vote was unanimous to approve the minutes as written.

**MUNICIPAL EVENT ANNOUNCEMENTS:**

Councilmember Brown indicated that the annual Christmas Lighting Ceremony would be held next Monday, November 25th, in the Park. She said the festivities would begin at 6:30 p.m. with a concert at Layton High School.

Councilmember Brown said there would be free hay rides through the lights on December 11th. She said Santa would be there and refreshments would be served in the bowery.

Councilmember Brown said the Turkey Bowl would be this Saturday at Davis Lanes.

Councilmember Brown said the Davis Arts Council would host their annual Christmas event, DAC the Halls. She said Peter Breinholt and Mindy Gledhill would be performing at Layton High.

**CONSENT AGENDA:**

**AUDIT AND FINANCIAL REPORTS – FISCAL YEAR ENDED JUNE 30, 2013**

Tracy Probert, Finance Director, said the Comprehensive Annual Financial Report (CAFR) for the year that ended June 30, 2013, had been audited by independent auditors hired by the Council. He said the auditors' opinion of the financial statements of the City was that of an unmodified opinion or a clean opinion, which was the best opinion they could give, and indicated that the financial statements were presented fairly in all material respects. Tracy said the Audit Committee reviewed the financial statements and audit reports and recommended acceptance of the CAFR. He said the reports were also reviewed in detail in the earlier work meeting.

Tracy said as of June 30, 2013, the City found itself in very good financial condition. He said at the end of the fiscal year the unassigned fund balance was 18%. Tracy said that may seem substantial but most cities throughout the State had an unassigned fund balance at around 18%. He said the enterprise funds had experienced good operating activity and had healthy fund balances.

Councilmember Bouwhuis expressed appreciation to Tracy for his good work. He said in the earlier meeting the auditors indicated that Layton City was the best managed city in the State. Councilmember Bouwhuis said all projects accomplished last year were funded by cash.

Mayor Curtis said the projects that were funded were substantial and included a fire training facility, a splash pad, a new 2 million gallon water tank and numerous road projects.

Councilmember Francis said the auditors had to really search hard to find even a tiny journal entry that was off, which was a real tribute to Staff.

Tracy said Staff would recommend the Council accept the financial statement and audit report as part of the motion.

**PROPOSAL AWARD – BOWEN, COLLINS & ASSOCIATES INC. – SANITARY SEWER MASTER AND MANAGEMENT PLANS – RESOLUTION 13-58**

Terry Coburn, Public Works Director, said Resolution 13-58 was a proposal award that authorized the execution of an agreement between the City and Bowen, Collins & Associates for consulting services for the sanitary sewer master plan and management plan. Terry said the sanitary sewer management plan was required by State law. He said the sewer master plan would identify existing and future deficiencies, and would generate Capital Improvement Plan projects for the next 30 years. Terry said four companies submitted proposals with Bowen, Collins & Associates being selected to perform the work. He said the bid was \$88,420; the engineer's estimate was \$100,000. Terry said Staff recommended approval.

**MOTION:** Councilmember Brown moved to approve the Consent Agenda as presented. Councilmember Francis seconded the motion, which passed unanimously.

**PUBLIC HEARINGS:**

**DEVELOPMENT AGREEMENT AND REZONE REQUEST – GREEN AND GREEN – R-S (RESIDENTIAL SUBURBAN) TO PB (PROFESSIONAL OFFICE) – 836 SOUTH ANGEL STREET – RESOLUTION 13-35 AND ORDINANCE 13-18**

Bill Wright, Community and Economic Development Director, said there were two items as part of this public hearing; Resolution 13-35 was associated with a development agreement and Ordinance 13-18 would rezone property located at approximately 836 South Angel Street from R-S, a residential zone, to PB, a professional business zone.

Bill displayed a map of the property. He said there had been a hearing on August 15th where this item was tabled. Bill said the Council had asked for additional information to address some of the issues raised at that public hearing.

Bill said the property was located on the southwest corner of Layton Parkway and Angel Street and contained .79 acres. He said Layton Parkway was continuing to the west. Bill said R-S property surrounded the property.

Bill displayed the zoning map included in the General Plan and identified the various zoning districts in the City. He explained that the map was general in nature and did not identify individually zoned properties. Bill said other parts of the General Plan were policy recommendations or statements that indicated where in the various zones the PB zone should be located. He said there were no PB zones designated on the map. Bill

said the policies of the General Plan established that the Council could consider the PB zone along arterial roads, along arterial roads that connected with collector streets, and along the edges of residential areas.

Bill said from the General Plan standpoint, this rezone request was an appropriate land use for the Council to consider. He said if this was a land use that was more of a commercial use in nature it would require a General Plan amendment; this rezone was consistent with the General Plan.

Bill displayed a map that identified other PB zones in the City. He stated that none of these were identified on the map included in the General Plan, but were approved based on the policy recommendations of the General Plan. Bill displayed examples of other PB developments in the City. He said the goal was to have these uses in various areas of the community.

Bill said in the August meeting there was a lot of discussion about traffic flow in the area; since that time the Public Works Department had restriped the road with a center turning lane. He displayed a map with the new striping pattern and explained how traffic would access the property. Bill said north of 500 North had not been restriped because the street had not yet been widened. He said that would be done in the future and would involve purchasing property.

Bill said there had been a lot of discussion about walking patterns in the area to access the elementary school. He said crossing guards had been relocated to the Layton Parkway intersection instead of the Weaver Lane intersection. Bill explained the walking pattern access to the school.

Bill said there had been a lot of conversation about traffic use with a dental office. He said using national standards for trip generations for dental offices, the combination of 3,300 square feet of dental office and two other general office uses would generate 119 average trips per day. Bill explained peak travel times, and indicated that the highest peak was 24 trips in an hour. He said if all of the space was dental office it would be 33 trips per hour at the peak hour. Bill said the road would handle 1,200 cars per hour; currently the road was at 600 cars per hour at peak. He said there was very ample capacity on the road to handle the traffic. Bill displayed data of traffic counts that were done on Angel Street.

Bill said Staff found no technical reasons to suggest that this land use would not be appropriate for this location, and in fact felt that this use was an appropriate use at this location because it was consistent with the General Plan.

Councilmember Flitton said according to the schematic, the driveway would be as far south as possible. He asked if that was for the safety of the intersection.

Bill said yes. He said in the conceptual drawing the driveway was located to the south, and all traffic would be coming out of the driveway in a forward facing movement.

Councilmember Flitton asked if there was a policy that would identified a minimum distance from an intersection.

Bill said yes; it was 200 feet.

Councilmember Bouwhuis said a major issue last time was the traffic pattern for students accessing the school. He asked Bill to review that information again.

Bill said previously there was a crossing guard at the Weaver Lane crosswalk; that crosswalk would remain there with lights that could be activated by a pedestrian. He said the crossing guard had been moved to the Layton Parkway crosswalk. Bill explained the walking pattern to the school through the neighborhood.

Councilmember Flitton asked if the lots were to remain residential, were there any guidelines for the driveways from the intersection.

Bill said they would be required to be as far south as possible, but there would be issues with the northern lot interfering with the turning lane at the intersection. He said Staff felt that it would be a greater concern having cars backing out of the residential lots onto Angel Street near the intersection.

Bill mentioned the large utility boxes on the northern lot and their impact on a residential lot.

Councilmember Francis said he met with a fun group of people from the area and there was a spokesman, Shirley Dixon. He asked if she could comment for the group.

### **Mayor Curtis opened the meeting for public input.**

Shirley Dixon asked to defer to Chuck Easton.

Chuck Easton, 1296 West 500 South, asked for a delay on the rezone vote for four reasons. The public only received the requested traffic studies and area plans from the City on November 19th and needed more time to review that information. He said the developer requested that the October vote be delayed until after the elections so that the election would not sway the vote. They were concerned that the results of the election may influence that decision. Mr. Easton said Councilmember Freitag was not present this evening. Councilmember Freitag was opposed to the rezone and voted no in the August meeting. Without his presence the discussion and results may not be accurately represented. He said it would be useful for many of those opposed to the rezoning to meet with Mr. Green to understand his concerns.

Mr. Easton said if a delay was not feasible, they would urge the Council to vote no for several reasons. The General Plan acted as an explicit contract with the public so that the public could make educated decisions when purchasing property. He said these parcels had been zoned and platted residential for many years; a sudden rezone seemed like a bait and switch to many of them. Mr. Easton said Angel Street was not similar to other roadways with PB zoning; Antelope Drive and Gordon Avenue were 75 feet wide and Fairfield Road and Fort Lane were 60 feet wide. This was much different given that Angel Street was 40 feet wide. He said Flint Street was close with a 45 foot cross section, and they all had center turn lanes with wide shoulders, curb, gutter, sidewalk and park strip. Mr. Easton said even Layton Parkway with its limited access was a fairly different arterial compared to most arterial streets.

Mr. Easton said there was a large area along Layton Parkway east of Flint Street that was already zoned PB and mixed use, with a large medical complex and transit oriented development coming in. He said with these major developments and others on the west side of Layton, there were a number of parcels, and willing sellers, that were already zoned for business development.

Mr. Easton said island businesses did not appear to some to be a part of good central planning. When one was allowed, many more were certain to follow. Mr. Easton asked if the City had a 20 or 30 year plan for streets such as Angel Street; they would like Angel Street to not end up looking like Fort Lane or Fairfield Avenue. Residents would like to keep it as quiet, slow and as safe as it was now.

Shirley Dixon, 558 South 1500 West, said the residential lots wouldn't have to front Angel Street; they could be flag lots off of the cul-de-sac on Arbor Way. She said there were many, many homes in the area with their back yards along Angel Street and they had sold; these lots were marketable. Ms. Dixon shared her expertise relative to child development and expressed her concerns with cars coming out forward from a business and children walking to the school. She mentioned other concerns with traffic and speeds in the area.

Kyle Harmon said he was the dentist interested in purchasing the property if it was rezoned. He said in the last hearing there was discussion about the size of the building and how many practitioners would be in the building. Mr. Harmon said he wouldn't want to bring other dentists into the area to compete with him. He said parking restrictions also limited the number of dentists that could be in this building. Mr. Harmon said for example, if there were three dentists, one in each suite, each dentist would be required to have 10 parking spaces. With the area available for parking spaces, the maximum number of dentists there could be would be three. Mr. Harmon said he didn't want three dentists in this area; his vision was similar to other areas of the

City, such as the McMillian practice, with two dentists and a hygienist or two. He said he would want the building to be similar in design to surrounding residential buildings. Mr. Harmon said he had worked previously in a three dentist office and it was not the ideal situation; quality dipped down and there was a lack of relationship with the patients. He said the McMillian practice also had a lab in the basement; his vision had always been a two suite dental business and a lab.

Mr. Harmon said with his current practice they had two dentists and one hygienist. He said his office manager had reviewed their last two years of data, relative to patient traffic, and she would present that information. Mr. Harmon said he would want to bring in a lab to help support his business. He said a lab would not generate clientele traffic.

Mr. Harmon said there would be benefits of him owning the building; he would have an incentive to keep the building in good repair. He said by the time they got through their planning and financial stages, they were at least two years out. Mr. Harmon said all of the homes in the area would be built by the time they began construction. Sidewalks would be in and the flow of children down Arbor Way to the school would be well established.

Mr. Harmon mentioned the Davis Physicians Group that was located on the corner of Gordon Avenue and 3200 West as being a similar use. He said there was a pedodontist at that location that had access off of 3200 West, which was very close to two schools, Legacy Jr. High and Sand Springs Elementary. Mr. Harmon said a pedodontist would have a higher volume of patients than a standard dentist, and there would be more foot traffic with two schools. He said he wasn't aware of any issues with that location.

Chris Dixon, 558 South 1500 West, said he appreciated Dr. Harmon's vision but the agreement being voted on tonight didn't contain that vision. He said the development agreement left it open to many businesses allowed in the PB zone that could be included in the building. Mr. Dixon said they would like a more specific agreement that would address some of these restrictions. He said the agreement didn't specify building size; Mr. Wright had originally indicated that the building could be up to 9,000 square feet. Mr. Dixon said having the children access the school via the Arbor Way route was against the SNAP plan, which recommended the children walk down Angel Street to Weaver Lane.

Councilmember Bouwhuis asked Mr. Dixon if these items were met, would he be comfortable with the plan.

Chris Dixon said not necessarily, but it would help. He said he would want to see more specific information in the agreement to guarantee that something like a dance studio would not be coming in.

Laura, Office Manager of Dr. Harmon's dental office, said she had been in five different practices. She said one of those offices had four dentists and a hygienist. She said the four-dentist office never got close to 20 cars within an hour. The average dental office produced between \$500,000 and \$600,000 a year. She said they saw about 12 patients per day, which was on pace to be about \$800,000 this year, which was slightly above average.

Laura said in the last meeting Councilmember Freitag stated that he had three to four drivers in his family. If the drivers were making three to four trips per day that was an average of 24 trips a day, and they would be backing out of a driveway.

Laura said the actual numbers for their practice for the past two years averaged 12 cars per day, or 24 total trips per day. She said they had seven employees, with three going to lunch at a time. With staff and patients it would total about 44 trips per day. If a lab was included in the building, that would total 53 trips per day. She said two houses would generate about 48 trips per day.

Laura said not all patients would be using Angel Street to access the office. She said the majority of their patients would travel west on Layton Parkway and south on Angel Street into the office. She said the idea that traffic on Angel Street would greatly increase was not true.

Dawn Fitzpatrick, P.O. Box 732, Layton, Utah, said she was a member of the Planning Commission. She said they were currently in the process of building a home just northeast of this location. Ms. Fitzpatrick said she had raised three children that safely walked to school; it was a parental responsibility to make sure children got to school safely. She said the other PB zones in the City that had been mentioned were all adjacent to residential subdivisions that had children that walked past those businesses on their way to school. Ms. Fitzpatrick said E.G. King Elementary was located on Fairfield Avenue and Gordon Avenue, and those children walked past a Maverik Store; and Lincoln Elementary on Antelope Drive was surrounded by businesses, and those children walked to school safely every day.

Ms. Fitzpatrick said moving from the east side of Layton to the west side they were hopeful that there was more walkability with the trails. She was excited with the idea of being able to walk to the dentist instead of driving.

Ms. Fitzpatrick said Angel Street would change dramatically from a quiet street to a much busier street with all of the development that was happening south in Kaysville. She said she would not want to purchase a residential lot that faced onto Angel Street.

Ed Green, Developer, said when he purchased the property in 1999 the Parkway wasn't even proposed. He said it didn't come into play until 2001. Mr. Green said when the traffic signal was installed, that included very large switch boxes on the northern lot. He said the big box installed by Rocky Mountain Power almost made it impossible to back out of a driveway because of site. Mr. Green said he wasn't sure that the lot would allow for the driveway to be the required 200 feet from the intersection. He said flag lots were not an option at this point.

Mr. Green said he had built many subdivisions in the City near schools, and he had met with the School District on many occasions when there were concerns. He said he hadn't heard of any concerns from the School District on this proposal.

Mayor Curtis said the utility boxes did create a problem.

Rick Smith, 615 South 1375 West, said PB zoning was legalized spot zoning. He asked for an explanation of the PB zoning just north of Hill Field Road and west of 2200 West; it wasn't on an arterial street and it wasn't on a corner.

Peter Matson, City Planner, said it was quite a bit different than some of the other ones. He said the north side of Hill Field Road west of 2200 West was the Terraventure property that was rezoned in 2006 that had a combination of zoning. Peter said there were two commercial pieces on the western portion of the property and as part of a plan for office and light retail, the PB zone was used to insure that the buildings would be of a lower profile and less intense land uses; somewhat of a transition between the heavier office use. He said it was part of a development agreement and master plan for that particular property.

Rick Smith said there was an irrigation box on the property that may shift the driveway to the north. He said on the Roberts Farms plat from 2008 the Parkway was identified as 750 South. Mr. Smith said Mr. Green knew that this road was planned.

Someone from the audience said 750 South was not at this location.

Mr. Smith said he would beg to differ; the preliminary plat approvals he saw showed it at this location. He asked about some of the lots in the area that would access onto Angel Street. Mr. Smith suggested that the dentist office should be at another location such as Angel Street and Gentile Street.

Denmark Jensen, 547 South 1500 West, said he was an optometrist at Layton Vision Center. He said Angel Street was not an arterial street and was not large enough to have a professional building at this location. Mr. Jensen said most people that were in favor of this had some type of financial gain from it, those voting against it didn't have any financial gain; they just wanted safety for their kids and wanted to keep the area a

nice residential area. He said there were plenty of other places for professional building on arterial streets. Mr. Jensen said they would hope that the voice of many would outweigh the voice of a few that had financial gain in this decision.

Katie Sergeant, 1433 West Timber Creek Lane, said many people in the audience that supported the dental office were not here for financial gain. She said this was not an ideal situation, but a dental office was the best option for the location. Ms. Sergeant said no one would want to purchase these lots for residential development. She said this would be a stable business with a stable dentist. Ms. Sergeant said there was a veterinary clinic right across the street from the elementary school; there was the Arbor Way Riding Stables that was also a business that had riding lessons, and Roberts Farms was right next to the property. She said this was not all residential; there were businesses in the area.

Camille Richmond, 895 Arbor Way, said her property backed up against the Roberts Farms property. She said she worried that there might be loitering on the property after business hours. You didn't know what types of activities a parking lot could generate at night. Ms. Richmond said she was concerned that the farm property could become business or PB zoning in the future.

Councilmember Brown explained that the PB zone had to be along an arterial type street, it couldn't go back into the property.

Ms. Richmond asked if the PB zone would open the door to allow for apartment buildings on the farm property.

Councilmember Brown said apartment buildings were an entirely different zone. She said apartments were not part of the General Plan for this area.

Mary Curtis, 798 South Angel Street, said her home fronted onto Angel Street. She said in 2006 before they bought their home, she was told by "Amanda" in the zoning department that the Parkway would never be bigger than Angel Street was currently, and that a light would not be at the Layton Parkway and Angel Street intersection. Ms. Curtis said she totally got the comment about bait and switch. She said she also understood how Mr. Green didn't think that it would be a big parkway. Ms. Curtis said when they moved in everyone said they couldn't believe that they purchased their home knowing that the Parkway was going through. She said for some reason they were not told the truth.

Ms. Curtis said the lot next to her would be a home and would have a driveway right next to her driveway, and would be accessing Angel Street. She said the farm property on the east side of Angel Street would probably be turned into businesses. Ms. Curtis said the zoning Staff told her that once the property was zoned for business, the odds for the property to the east going business was an extremely high percentage. She said if this zoning was approved, she would be getting with Mr. Green and would try to get her home turned into doctor's offices. Ms. Curtis said she didn't think it was fair that things were changed. She suggested that the property to the east should be developed into a park.

Mayor Curtis said the City didn't own the land, and didn't have an option to build a park on that property. He said the City did work with developers in providing parks.

Councilmember Francis said the property to the east wasn't even in the City; it was County property.

Jason Sergeant, 1433 Timber Creek Lane, said he had grown up in west Layton and chose to move back because he loved the area. He said his grandpa lived on the corner of Angel Street and Gentile Street. Mr. Sergeant said he didn't feel comfortable allowing his children to play at his grandpa's house because of the traffic on Angel Street and Gentile Street. He said he knew firsthand the difficulties of backing out onto Angel Street. Mr. Sergeant said it troubled him that there might be residential homes on this property; he wouldn't feel comfortable allowing his children to play at those homes. He said he supported the dental office and thought that it would be good for the community. Mr. Sergeant said the two dentist offices that were mentioned, McMillian's and Christensen's, accessed their parking lots off of a collector street and not

an arterial, which was similar to Angel Street.

Becky Cowley, 536 South 1425 West, said she had a degree in landscape architecture. She said everything Dr. Harmon shared was conjecture; he couldn't predict the future, he didn't know what his business would do, and he didn't know how well it would do. Ms. Cowley said it could become dead space; there was a lot of dead space in Layton already. She said you needed to plan for maximums, not minimums. Ms. Cowley said relative to the traffic studies, this would increase the traffic. She said she didn't support the PB zoning.

John Green said he owned the farm at 801 South Angel Street, which bordered the Parkway. He said he supported the dental office. Mr. Green said they weren't very happy when the Parkway went through and split their farm. He said the best use for this property, and his corner, would probably be something like a dental office. Mr. Green said they had kids walking in front of their property to the school, with semi trucks accessing the farm, and there hadn't been any problems.

Becky Packard, 1372 West Timber Creek Lane, said she lived on the corner of Arbor Way. She asked for clarification on where the children would cross Arbor Way to access the school.

Bill Wright said there were a few options, with a stop sign at one of the intersections.

Ms. Packard asked if it would warrant a crossing guard to cross Arbor Way.

Bill said that was something that could be determined in the future through discussions with the school and the PTA.

Ms. Packard said there had been a stop sign that stopped traffic on Arbor Way, but that had been moved to stop the traffic on Stone Brook. She said there was nothing stopping traffic on Arbor Way from the Parkway to Weaver Lane.

Ms. Packard said in previous meetings there had been discussion about circular driveways on the lots if they were residential lots. She asked if that would be an option.

Bill said a circular driveway was an option; the concern on the north lot was with the electrical boxes on the property.

Ms. Packard asked when the utility boxes were installed.

Bill said the green box was put in with development of the subdivision; the other boxes were installed with the development of Layton Parkway and the signal. Someone from the audience corrected Bill. He restated that the Rocky Mountain Power box was installed when improvements were made on the other side of Angel Street and all of the power lines were put underground.

Ms. Packard said in reviewing minutes, she didn't see where any of these issues were brought up when Phase 8 of Roberts Farms was approved and these lots were platted as residential lots. She said she wondered if these things were known in the beginning, would the plat map have been changed.

Bill said that was hard to speculate.

Councilmember Bouwhuis said he was at a luncheon today where a public relations representative and service representative with Rocky Mountain Power spoke. Councilmember Bouwhuis said the representative indicated that consequences of putting power lines underground were the large green boxes. He said this was independent of zoning and was out of the City's control.

Councilmember Flitton said those were generally a result of public demand because it was much more aesthetically pleasing to have the power lines underground.



Ms. Packard said she didn't question the need for the box or the power lines; her point was that it would have been better to look at all of those options when making final zoning decisions.

Shirley Dixon said the City didn't determine the safe route to the school; the Community Council made that determination. She said the SNAP plan totally was against going up Arbor Way. Ms. Dixon said they were told by the City that there absolutely would not be crossing guards there. She said they looked for four years before purchasing a home, to find a place that was residential and that would be safe for their children to walk to school. Ms. Dixon said this area was zoned residential at that point and to up and switch that and spot rezone was almost like going back on your plan. How could anyone make a decision to spend hundreds of thousands of dollars on a home if the City was going to spot rezone and go back on what the plan was? They didn't buy by E.G. King, or off of Antelope Drive; this area was shown as residential. Ms. Dixon said they felt that it was a bait and switch.

Alex Jensen, City Manager, said he thought what Mrs. Dixon had said was false; there had been no bait and switch. He said since this road had been conceived, the Master Plan had always provided for either single family residential or professional business. Alex said, as had been explained several times this evening, the map was not the General Plan; the map was a piece of the General Plan. He said if you read the General Plan, it specifically had language that identified that the policies, the statements and the written language were part and parcel to the Plan and gave definition to the Plan. Alex said the General Plan did not zone any piece of property; the General Plan made a statement about the value or propriety of certain kinds of uses. When people wanted to actually develop their property, then they came in and asked for rezoning, which actually gave life to the General Plan. He said the zoning on this property had not previously been changed; Mr. Green was asking to rezone the property for a use that had always been provided for in the General Plan. It was not a matter of one being allowed by the General Plan and one not being allowed by the General Plan, it was a matter of opinion about which one was the better use. Alex said because he was involved in the initiation of this, the assertion that there had been a bait and switch, or that this was never contemplated, simply was not true, and we ought to give our opinions but not make accusations and assertions that had no basis in reality.

Gary Crane, City Attorney, said for clarification, "spot zoning" was a term of art used to describe zoning that was inconsistent with the General Plan. He said the fact that this was consistent with the General Plan eliminated the term "spot zoning" from even being a consideration.

Eric Ratcliff, 1527 Bolder Creek Lane, said he was a residential builder. In order to sell a home on this lot would it require a cheaper home; no one that could afford a \$400,000 to \$500,000 home would purchase on this street. He said there would be more benefits to the area with a commercial use on this property. A less expensive home would detract from the neighborhood.

Councilmember Brown said for clarification of a statement by Mr. Easton, he stated that the reason the rezone was moved to November 21st was because they knew that Councilmember Freitag would not be at the meeting. She said she didn't know when or if Mr. Green knew that Councilmember Freitag wouldn't be here. Councilmember Brown said she typically didn't know if another Councilmember was going to be at a meeting or not until right before the meeting. She said in this case, she knew that Councilmember Freitag would not be at this meeting because at a previous meeting the City Recorder had asked which Councilmembers could be in attendance for a meeting on November 19th for the canvass of the election, and Councilmember Freitag indicated that he would be out of town.

**MOTION:** Councilmember Francis said he had met with the group that had concerns, and also hearing the positives of the business, he felt that there was still room for the parties to come together. He said he was hopeful that if a little more time was allowed for the groups to meet with Mr. Green and Dr. Harmon, that they could come to a better place than they were at right now. Councilmember Francis said he had heard a lot of pros and cons and he would make a motion to table this to the first meeting in December to allow for time to digest the traffic studies that had been new to this group, but the real caveat was to meet with Mr. Green and this group to see if there was a middle ground that could be achieved. He said he thought that everyone wanted what was best for the property and for the neighborhood in general. He said he was hopeful that by

tabling it into December we could meet together and with the best intentions come up with some compromises that would make this work for all sides.

Councilmember Bouwhuis suggested an amendment. He said he wasn't sure the first meeting in December would allow for enough time and suggested the second meeting in December, to give more time; and added that he agreed with what Councilmember Francis stated; to meet with Mr. Green, allow time for citizen review, and development of an understanding on the dental property specs with Dr. Harmon. **Councilmember Bouwhuis said he thought that those were the three specific points of why it would be tabled, and he would second the motion.**

Councilmember Flitton said he would echo Mr. Jensen's statement. He said bait and switch was very unfair, accusatory, and inaccurate. Councilmember Flitton said the reason he may be in favor of voting for Councilmember Francis' motion was because if the concerned group didn't receive the information until November 19th, that wasn't sufficient time for them to review the information. He said he also agreed with Councilmember Bouwhuis that talking about this further with Mr. Green and the people who were opposed to this could bring us together on the building that Dr. Harmon wanted to construct. This could be a very big asset to this area and to the community.

Councilmember Flitton said the comment was made that when one business was allowed more would follow; that was also speculation. He said he felt that the election was lost for him because of being accused of not listening to the people. Councilmember Flitton said that too was inaccurate. He said this would give the Council time to listen to the people a little more. He said they were told in one testimony that the Council needed to listen to the majority; make no mistake that just because the majority in attendance were opposed didn't mean that they were the majority.

Gary Crane asked the Council to restate the motion for the record.

**RESTATED MOTION:** Councilmember Francis moved to table the development agreement and rezone request until the second Council Meeting in December, which was December 19th, in order to take these various issues into consideration and hopefully come to a middle ground with all the parties concerned.

Gary said for clarification, would the public hearing continue to remain open, or would they close the public hearing.

Councilmember Francis said it would remain open until then.

Gary asked if the public hearing would remain open for all issues or would it only be for the specific issues mentioned in the motion; the traffic study, if the conditions the doctor talked about could be incorporated into the agreement, and conduct a meeting with Mr. Green.

Councilmember Bouwhuis said for the three specific issues.

Councilmember Brown said there were issues heard this evening that were also heard at the August meeting. She asked if the public hearing could be limited to the new issues discussed this evening, and not bring up what they had already heard.

Gary said that was what he was hearing. Usually when an applicant had been before the Council as many times as this applicant had been here, the Council could limit the issues to whatever they wanted to know more about.

Councilmember Brown said the motion this evening could limit the public hearing to those three specific issues.

Gary said yes.

Councilmember Francis agreed to those three items.

**Councilmember Bouwhuis seconded the motion, which passed unanimously.**

**CITIZEN COMMENTS:**

Roger Leftwich, 5117 South 4950 West, Hooper, said he had a nonprofit organization that operated in Layton. He said he would like to see an amendment to the food truck ordinance. Mr. Leftwich said they needed ways to fund their drug prevention program. He said they had a mobile food truck and had been given permission to set up in the parking lot of a local business, but the ordinance didn't allow for their use. Mr. Leftwich provided a packet of information to the Council.

Mayor Curtis said the Community and Economic Development Department would review the information provided.

Chuck Easton, 1296 West 500 South, said he just wanted to clarify that he never meant that Ed Green had possibly set this meeting up today because Councilmember Freitag was not here; that was not anywhere in his comments.

Councilmember Brown said that it actually was; one of Mr. Easton's statements was that the meeting was set up this evening partly because Councilmember Freitag was not going to be here and the City knew that he was against the proposal.

Mr. Easton said he only brought that up to illustrate that he felt that Councilmember Freitag not being here could influence the decision.

Councilmember Brown said she wanted to make sure that the people in the audience knew that the Council didn't know ahead of time when an individual Councilmember was not going to be in attendance.

Mr. Easton said he understood that.

Councilmember Bouwhuis said the Council didn't ask for the meeting to be delayed. He said he had no communications with Mr. Green or anyone else; that was the applicant's decision and if he wanted to pull it or change it, he had every right to do that.

**The meeting adjourned at 9:54 p.m.**

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Thieda Wellman, City Recorder